

Filed for intro on 03/29/1999

HOUSE BILL 2 of the First Extraordinary Session
By Kisber

AN ACT to amend Tennessee Code Annotated, Title 67, to enact the "Tax Exemption Review Law".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, is amended by adding Sections 2 through 10 of this act as a new chapter.

SECTION 2. (a) The general assembly finds and declares that exemptions from state taxation of its citizens, businesses and industries result in significant revenue loss and that a method of reviewing such exemptions is necessary to ensure that unnecessary and harmful exemptions are abolished and that legitimate, necessary exemptions are continued.

(b) It is the intent of the general assembly by this act to provide a responsible method to review tax exemptions to ensure that such exemptions are beneficial rather than detrimental to the public interest of the citizens of Tennessee.

SECTION 3. The department of revenue shall notify the chair of the joint select committee on business taxes prior to August 1 of each year of any statutory exemption from the following taxes which resulted in loss of revenue of one million dollars (\$1,000,000) or more in the preceding fiscal year:

- 1) Sales and use tax (codified at Tennessee Code Annotated, Title 67, Chapter 6);
- 2) Franchise tax (codified at Tennessee Code Annotated, Title 67, Chapter 4, Part 9);
- 3) Excise tax (codified at Tennessee Code Annotated, Title 67, Chapter 4, Part 8); and

- 4) Gross receipts tax (codified at Tennessee Code Annotated, Title 67, Chapter 4, Part 3).

SECTION 4. The joint select committee on business taxes shall review all exemptions reported to it by the department of revenue in accordance with the provisions of this act and all exemptions which are created after January 1, 2000, which are subject to the provisions of this act.

SECTION 5. (a) The committee shall establish a schedule to review exemptions subject to review pursuant to Section 3.

(b) Prior to the repeal, continuation, reestablishment or restructuring of any tax exemption, the committee shall hold at least one (1) public hearing and receive testimony from the public and from the department of finance and administration.

(c) In conducting the review of exemptions, the committee shall take into consideration the following factors:

- (1) The amount of revenue loss caused by the exemption;
- (2) The impact of the exemption on the person, business or industry benefited by the exemption;
- (3) The impact of repeal of the exemption on the economy;
- (4) The impact on employment in businesses or industries benefited by the exemption;
- (5) The extent to which other government actions might achieve the purpose sought to be achieved by the exemption;
- (6) The results of published and unpublished studies of various alternative methods of accomplishing the objectives of the exemption;
- (7) The extent to which the absence or continuation of the exemption would endanger the public health, safety or welfare;

(8) The extent to which the exemption directly or indirectly increases the costs of goods or services to the public;

(9) The extent to which the exemption is designed to protect and promote the public interest and the degree to which that exemption has attained those objectives;

(10) The extent to which a need actually exists for the exemption;

(11) The extent to which the exemption has effectively obtained its objectives and purposes and the efficiency with which it has operated; and

(12) The extent to which the exemption is comparable to similar exemptions offered by other states.

SECTION 6. (a) If the committee by a majority vote determines that an exemption should be repealed, the committee shall cause to be introduced legislation necessary to repeal such exemption.

(b) If the committee by a majority vote determines that an exemption should be continued, restructured or reestablished, the committee shall cause to be introduced legislation to amend the appropriate sections of the code or the public acts.

SECTION 7. Each exemption which is continued, restructured or reestablished pursuant to this act shall be reviewed four (4) years following its continuation or reestablishment, and shall be subject every four (4) years thereafter during its existence to the review and procedures provided for in this act.

SECTION 8. Any legislation which the committee causes to be introduced shall concern only one (1) exemption, and the name of such exemption shall be contained in the caption of the bill. However, if the committee causes legislation to be introduced which would restructure two (2) or more exemptions by combining the exemptions, then such legislation may concern all the exemptions thereby restructured; provided, that a description of all such exemptions are contained in the caption of the bill.

SECTION 9. Nothing in this act shall be construed to prohibit the general assembly from repealing an exemption covered by its provisions at a date earlier than that provided herein, nor to prohibit the general assembly from considering any other legislation relative to such an exemption.

SECTION 10. (a) Notwithstanding any provision of law to the contrary, each exemption from the taxes enumerated in Section 3 initially created after January 1, 2000, shall be repealed on June 30 of the fourth calendar year following the year in which such exemption is created, if the fiscal note on such exemption states that the exemption will cause revenue loss of one million dollars (\$1,000,000) or more in a fiscal year.

(b) In conducting the review of such exemption, the committee shall take into consideration the criteria enumerated in Section 5(c).

SECTION 11. The provisions of this act shall take effect on July 1, 1999, the public welfare requiring it.